STATE OF MICHIGAN

COURT OF APPEALS

ROBERT O. FRIEND, Plaintiff-Appellant,	UNPUBLISHED March 15, 2005
v	No. 251415 Lapeer Circuit Court
VILLAGE OF NORTH BRANCH, Defendant-Appellee.	LC No. 02-031219-NO

Before: Murray, P.J., and Markey and O'Connell, JJ.

PER CURIAM.

Plaintiff appeals by right the trial court's order granting summary disposition to defendant. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E)

This case involves the discharge of plaintiff from his employment as a police officer for the village of North Branch. Plaintiff was hired as a patrol officer by the village on April 6, 2001. He was an at-will employee. His employment was terminated on January 18, 2002, ostensibly for a number of employment and non-employment related self-control problems. Plaintiff asserted that his termination was illegal. He maintains that he was fired in retaliation for his reports to, and threatened legal action against another public body, the Lapeer County Construction Code Authority (CCA), in conjunction with a basement project for which plaintiff, as the homeowner, acted as general contractor. Defendant, on the other hand, maintained that it ended plaintiff's employment due to his continuous misconduct, including inappropriate behavior toward CCA staff and threats of physical violence against two subcontractors.

After defendant informed plaintiff of its decision to terminate his employment, plaintiff filed suit and claimed that his termination was unlawful. He argued that defendant violated the Whistleblower's Protection Act (WPA), MCL 15.361 *et seq*., that the termination violated public policy because it was in retaliation to plaintiff's threat of a lawsuit against the CCA, and that the termination was improper retaliation for plaintiff's assertion of his First Amendment right of free speech. Defendant moved for summary disposition. The trial court found for defendant on all claims and granted the motion.

On appeal, plaintiff provides little in support of his claim that the trial court erred. It appears that plaintiff has deliberately abandoned his claims that his discharge violated the WPA and his constitutional right of free speech.[1] Thus, these claims will not be discussed further.

Plaintiff's remaining claim is that the discharge violated public policy. The thrust of this argument is that the trial court impermissibly decided questions of fact. Plaintiff tries to counter defendant's assertion below that the discharge was due to the totality of plaintiff's violent or overly aggressive conduct. However, plaintiff's argument misses the thrust of the trial court's actual ruling with respect to his public policy claim.

As both the trial court and the parties here noted, there are limited exceptions to the general rule that an employer may terminate the employment of an at-will employee at any time.

> In [*Suchodolski v Michigan Consolidated Gas C*o, 412 Mich 692, 694-695; 316 NW2d 710 (1982)], our Supreme Court recognized three situations where the discharge is so contrary to public policy as to be actionable though the employment is at will. The three public policy exceptions to the at-will doctrine apply when (1) the employee is discharged in violation of an explicit legislative statement prohibiting discharge of employees who act in accordance with a statutory right or duty, (2) the employee is discharged for the failure or refusal to violate the law in the course of employment, and (3) the employee is discharged for exercising a right conferred by a well-established legislative enactment. 412 Mich at 695-696. [*Edelberg v Leco Corp*, 236 Mich App 177, 179-180; 599 NW2d 785 (1999).]

Plaintiff claims that this action is based on the third prong of *Suchodolski*. In support of his claim, he relies on the language of MCL 125.1512, arguing that the statute provides for comprehensive regulation of the home building industry. He maintains that he was asserting his right to seek enforcement of an issue regarding the failure of the subcontractors to perform the concrete work in a workman-like manner and in compliance with the local building codes.

But as the trial court noted, the actual language of this provision does not provide plaintiff with "a right conferred by a well-established legislative enactment." Instead, it actually provides a way for the enforcing agency to act against *plaintiff* as the building permit holder and general contractor. The statute provides that the CCA, or other enforcing agency, shall have permission to inspect building construction for the purposes of ensuring compliance with the building permit issued for the structure and the applicable building codes. MCL 125.1512(2).

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[1] Plaintiff provides a brief mention of his First Amendment claim, asserting only that the trial court erred when it resolved the factual question of whether the statements he made were, in fact, threats. Plaintiff's failure to explore this issue in any detail renders this claim abandoned. See *Check Reporting Services, Inc v Michigan Nat Bank-Lansing*, 191 Mich App 614, 628; 478 NW2d 893 (1991) ("An appellant may not merely announce its position and leave it to this Court to discover and rationalize the basis for its claims.... Arguments without supporting citation are considered abandoned on appeal.").

The statute also provides the enforcing agency with the power to issue an injunction, or "stop work" order if construction is undertaken contrary to the permit or other applicable laws. MCL 125.1512(3). Nothing in the statute specifically provides a private cause of action to plaintiff against his subcontractors. And nothing in the statute states that a private individual can force the enforcing agency to pursue claims against subcontractors.

Moreover, plaintiff cannot show that he has an implied cause of action here. This Court has summarized the approach used to determine whether a private cause of action exists as follows:

> If the common law provides no right to relief, and the right to such relief is instead provided by statute, then plaintiffs have no private cause of action for enforcement of the right unless: (1) the statute expressly creates a private cause of action or (2) a cause of action can be inferred from the fact that the statute provides no adequate means of enforcement of its provisions. *Bell v League Life Ins Co*, 149 Mich App 481, 482-483; 387 NW2d 154 (1986). It follows that courts must dismiss a private cause of action under a statute creating a new right unless the statute expressly created the private cause of action or the cause of action may be inferred because the statute does not provide adequate means to enforce its provisions. *Forster v Delton School Dist*, 176 Mich App 582, 585; 440 NW2d 421 (1989). [*Long v Chelsea Community Hosp*, 219 Mich App 578, 581-582; 557 NW2d 157 (1996).]

In the instant case, plaintiff had a separate private cause of action against his subcontractors for breach of contract based on the alleged deficiencies. Also, the statute provides an adequate means to enforce its purposes through the permitting process and inspections by the enforcing agency. Moreover, the fact that the statute provides a means of enforcement against plaintiff as the permit holder makes incongruous his position on appeal that he is entitled to a private cause of action under this statute.

Thus, because plaintiff cannot show that he was discharged for exercising "a right conferred by a well-established legislative enactment," his public policy argument is without merit. The trial court did not err in granting summary disposition to defendant.

We affirm.

/s/ Christopher M. Murray
/s/ Jane E. Markey
/s/ Peter D. O'Connell